

PUBLIC UTILITIES COMMISSION

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March 2, 2021

VIA ELECTRONIC FILING

Ms. Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Addressing the Homework Gap through the E-Rate Program; WC Docket No. 21-31

Dear Ms. Dortch:

We, the California Public Utilities Commission (CPUC) President Marybel Batjer and Commissioner Martha Guzman-Aceves, write this *ex parte* letter in response to the Federal Communications Commission's (FCC) Public Notice released February 1, 2021 in WC Docket No. 21-31.¹ We generally support the various petitions for emergency relief asking the FCC to permit the use of E-Rate program funds to support remote learning during this unprecedented public health emergency. Some of these petitions were filed months ago, but California's experience with funding remote learning shows the emergency—and the need—remains. We also write to share the CPUC's experience administering a remote learning subsidy through its California Teleconnect Fund (CTF) program. In response to the COVID-19 pandemic, the CTF program initiated a special effort in March 2020 to provide internet access to students from rural, small, and medium school districts so that they can participate in online remote learning.

California research found one in four households with a student in K-12 lack a computer and internet connection (distance learning resources), and approximately half the families in the bottom 20 percent of household income lack distance learning resources.² Further, regardless of income, rural and minority K-12 households were even less likely to have access to distance learning resources. Work from the Partnership for Los Angeles Schools and interviews of 1,000 families Los Angeles Unified School District families underscored "that despite the current efforts of state and local political leaders and the largest internet companies, the digital divide

¹ This letter represents views of the CPUC President Batjer and Commissioner Guzman Aceves. President Batjer and Commissioner Guzman Aceves will share the letter with the remaining CPUC commissioners after filing with the FCC.

² Hernan Galperin et al, The Distance Learning Gap in California, Connected Cities and Inclusive Growth (April 2020), <http://arnicusc.org/publications/mapping-the-distance-learning-gap-in-ca/>

persists as a barrier to student learning.”³ For many students, the “homework gap” turned into to a full-fledged barrier to education at the onset of the COVID-19 pandemic.

The CPUC responded swiftly to the pandemic with numerous efforts to protect and assist Californians. Below, we provide our experience with the CTF Distance Learning Discounts subsidy because it is closely related to questions at issue with E-Rate and the requested Emergency Waivers.

CTF Distance Learning Discounts

The CPUC created the CTF program to bridge the digital divide.⁴ It provides a 50 percent discount on eligible advanced telecommunications services to qualifying K-12 schools, libraries, community colleges, government-owned hospitals and health clinics, and community-based organizations. Prior to the Governor’s declared State of Emergency, the CTF program excluded discounts for schools that wished to extend broadband connectivity off-campus, such as a student’s home.

In April 2020, the CPUC launched the CTF program’s Distance Learning Discounts in cooperation with the California Department of Education (CDE). The initiative offers a 50 percent discount on the monthly recurring service charges for mobile data services (hotspots). Distance Learning Discounts are limited to services purchased by public school districts for use by students who do not have adequate internet access at home and are unable to participate in online classrooms or other remote learning activities.

The CTF program has relied, at least in part, on the E-Rate’s Eligible Service List to determine which services are eligible for state support. Moreover, California statute requires that support from the CTF program be applied to only the balance remaining after accounting for aid received from E-Rate.⁵ To encourage our schools and libraries to maximize their available financial assistance, the CTF bases its discount on the assumption that all potentially eligible schools and libraries also receive E-Rate support.

These dynamics presented a challenge during the pandemic because, under normal circumstances (a) off-campus services are typically ineligible, and (b) the presumption of E-Rate support reduces the CTF discount. The CTF Distance Learning Discounts exempts schools from the above-mentioned rules so they can receive the maximum CTF discount without regard to E-Rate eligibility or support.

³ Partnership for Los Angeles Schools, Equity and Justice Alert: Bridging LA’s Digital Divide (April 22, 2020), <https://partnershipla.org/news/equity-alert-bridging-las-digital-divide/>; see also Partnership for Los Angeles Schools, Listening to Learn: What Los Angeles Families Say They Need During Distance Learning (September 21, 2020), <https://partnershipla.org/news/listening-to-learn-what-los-angeles-families-say-they-need-during-distance-learning/>.

⁴ The CTF program is administered by the CPUC and governed by California Public Utilities Code Section 280 and 884.

⁵ Public Utilities Code section 884.5(a).

To implement the Distance Learning Discount quickly while staying within budget constraints, the CTF program and CDE focused exclusively on rural, small, and medium school districts. CDE sent notice to 1,037 public school districts describing the initiative and its eligibility requirements. Only 34 percent of rural school districts applied. In contrast, over 66 percent of large school districts applied for the discount despite CDE's clear stipulation that large school districts were ineligible.

Clearly, a tremendous need exists for students at both rural and urban schools. We are working with CDE to better understand the reasons for the low participation rates for rural, small, and medium school districts, but we do have anecdotal evidence suggesting several contributing factors that underscore differences in the ability of some schools to apply for, purchase, and manage services to support remote learning.

Many schools, especially smaller and rural ones, lack personnel and financial resources and may not have the technical expertise to design and implement a hotspot lending program. Moreover, mobile services are not a solution for everybody, and support for wireline or fixed wireless services should also be considered. The FCC should allow schools to broadcast WiFi beyond the school premises and allow schools to use otherwise unused capacity on E-rate funded infrastructure, including middle mile, to make broadband available for students at home particularly in areas where mobile service is unavailable.

The CTF program currently provides Distance Learning Discounts for over 100,000 connections purchased by 412 public school districts. School districts on average requested and obtained approval for discounts on 30 percent of their average daily attendance. In total, CTF pays around \$370,000 per month for Distance Learning Discounts.

Six wireless broadband providers participate: AT&T Mobility, Kajeet, Sprint Spectrum, T-Mobile, US Cellular, and Verizon Wireless. These providers offer various wireless broadband services, nearly all of which rely on 4G LTE. The providers have data caps ranging from 2GB per month to unlimited. Several also offer equipment subsidies based on contract length, equipment purchased, and other factors. The monthly connection cost of the services before the discount ranges from \$10 to \$40 with school districts receiving a \$5 to \$20 discount.

CTF Program Take-Aways

The need for an immediate solution to remote learning for schools and families began with the pandemic. Schools had to act fast, and the costs to provide education increased dramatically in a short amount of time. Because of this, we encourage the FCC to consider retroactively expanding E-Rate eligibility to at least July 1, 2020.

We also learned that one size does not fit all. Schools need to be able to choose which service provider(s) and technologies best fit their needs. Schools consider many variables, including cost, service mobility, security, device compatibility, service availability and reliability, service quality, the availability of service management, filtering, and network security features.

To work within budgetary constraints, the CTF program utilized a one-off appropriation surplus of \$25 million to fund the Distance Learning Discounts. This support is available for a limited

time, and based on current trends, we expect the discount to end on June 30, 2021. The CPUC might consider how to continue the Distance Learning Discounts, but even with a better understanding of the need for adequate connectivity for remote learning, the CTF program alone is not equipped to provide long-term financial support for distance learning. If the FCC were to grant the Emergency Waivers, the Distance Learning Discounts could be used in conjunction with E-Rate. Synergies between the two programs might allow the CPUC to extend the Distance Learning Discounts further.

FCC Public Notice Recommendations

Granting the requested Emergency Waivers will help to mitigate the harm to students caused by displacement and the need for quality home broadband. We support the following:

- **Expanding E-Rate eligibility to include off-campus use of devices.** To enable students who otherwise do not have access to the internet at home, E-Rate funds should support school deployment of hotspots to student homes to enable remote learning. To facilitate an expansion of eligibility to off-campus locations, the FCC should undo the requirement for schools to cost-allocate off-campus use. The expansion should enable E-Rate support for hotspot and other internet connected devices that schools purchase and distribute to students who otherwise lack adequate access at home. The FCC should also consider continuing E-Rate eligibility for off-campus hotspot use beyond the pandemic to help our nation close the homework gap.
- **Revising the concepts of “classroom” and “campus.”** The FCC should extend the definitions of classroom and campus to include off-site locations where students and teachers participate in remote learning. When the E-Rate program was authorized in 1996, neither Congress nor the FCC envisioned the extent to which education would come to rely on internet enabled devices. As such, the FCC should redefine what constitutes a classroom and campus to include off-site locations and student residences.
- **Expanding E-Rate eligibility to include Wifi network access beyond the traditional school campus, including school and library networks designed to provide internet access to students in their homes.** The FCC should expand eligibility to include fixed wireless devices located at a school or library site for use by students in their homes or in public places. The expansion should enable E-Rate support for projects such as Nevada’s proposal to install fixed wireless hotspots on the roofs of school buildings to extend E-Rate connectivity to neighborhoods surrounding a school for student and staff use. E-Rate in this case would restrict access to students and school staff through specific credentials or registered devices. The FCC should also consider E-Rate eligibility for WiFi network proliferation beyond a school or library site after the pandemic to help our nation close the homework gap. Expenses for necessary and reasonable cybersecurity costs should also be eligible.

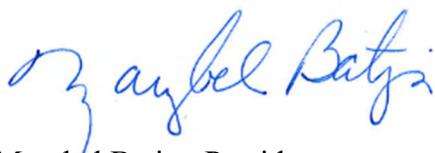
The Public Notice also requests input on several other topics that we wish to briefly touch on here:

- **How can the FCC prioritize in the event that demand exceeds available funds?** The FCC should prioritize low-income schools, particularly those with the largest number of students lacking home broadband. A needs assessment should take into consideration, at a minimum, the availability and cost of devices and internet service in the area and how that affects a school's ability to equitably implement distance learning.
- **Which equipment and services should be eligible for support when used for remote learning?** An expansion of E-Rate should accommodate a range of technologies, including wired and wireless devices and services that are suitable for distance learning. This includes, but is not limited to, wireless hotspots, tablets, and laptops.
- **Amending E-Rate filing requirements and schedules.** E-Rate filing requirements should not be a barrier. Schools and libraries should have ample opportunity to participate in any emergency relief opportunities stemming from this petition and other FCC efforts.

The CPUC recognizes the need to work closely with the FCC to help our students weather these unprecedented challenges. While we urge swift action to address these issues, the FCC should not eliminate the need for a full notice and comment proceeding. To that end, the FCC should expand E-Rate eligibility to remote learning services immediately by opening a supplemental application window and awarding support through streamlined administrative procedures.

We hope the FCC will work expeditiously to help close the homework gap and address inequitable access to the internet so that all students can receive the education they deserve—especially during these trying times. We appreciate this opportunity to offer our support of the petitions for emergency relief regarding E-Rate funding and remote learning.

Respectfully submitted,



Marybel Batjer, President
California Public Utilities Commission



Martha Guzman Aceves, Commissioner
California Public Utilities Commission